

Master Services Agreement

Reference No. B-04-005

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This Master Service Bureau Agreement, hereinafter referred to as the "Agreement" or "contract" is made by and between the State of Connecticut, acting by its Department of Information Technology/Contracts & Purchasing Division, hereinafter referred to as the "Customer," located at 101 E. River Drive, E. Hartford, Connecticut 06108, and Auto-Graphics, Inc., hereinafter referred to as the "Supplier" or "contractor," having its principal place of business at 3201 Temple Avenue, Pomona, California 91768. Where contracting agency is referred to in this Agreement, it is understood to be the Department of Information Technology.

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In consideration of the mutual promises and covenants in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. TERM OF AGREEMENT

- a. This Agreement shall become effective in accordance with the provisions of the Section entitled APPROVAL OF AGREEMENT and shall continue for a three year term unless terminated in accordance with the provisions of this Agreement. The Customer shall have the right and Supplier agrees to grant Customer three one-year options to extend any Service under this Agreement. If the Customer exercises its options under this Agreement, the parties shall amend the term of this Agreement prior to its expiration. The Customer shall have the right and Supplier agrees to grant Customer additional one-month optional extensions in accordance with Section 4d-44 of the Connecticut General Statutes with seven (7) days prior written notice of such intent for any Service under this Agreement.
- b. Notwithstanding any provision or language in this Agreement to the contrary, the Commissioner may terminate this contract whenever he/she determines in his/her sole discretion that such termination is in the best interests of the State. Any such termination shall be effected by delivery to the contractor of a written notice of termination. The notice of termination shall be sent by registered mail to the contractor address furnished to the State for purposes of correspondence or by hand delivery. Upon receipt of such notice, the contractor shall both immediately discontinue all services affected (unless the notice directs otherwise) and deliver to the State all data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by the contractor in performing his duties under this contract, whether completed or in progress. All such documents, information, and materials shall become the property of the State. In the event of such termination, the contractor shall be entitled to receive payment for services rendered as of the date of termination, however, no compensation for lost profits shall be allowed.

2. DEFINITIONS

- a. The term "Affiliate" as used herein, is defined as (1) a "parent", (2) subsidiary or (3) other company controlling, controlled by or in common control with Supplier.
- b. The term "Application System" or "System" as used herein is defined as any Customer operated component or aggregation of software designed and configured for Customer use in performing data manipulation and/or calculation functions in conformance with Customer design specifications.
- c. The term "Bibliographic record" as used herein is defined as the primary unit of information with associated local holdings and coded information (as described under "Master Database") within the Master Database.
- d. The "Initial Service Period" for any Service shall be that Service Schedule Service period initially specified in the applicable Letter Order.

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e. Letter Orders, wherein Service(s) have been successfully initiated, evaluated, and accepted, thereafter shall be attached to this Agreement until terminated, and are hereinafter referred to as "Attachments".

f. The term "Master Database" as used herein is defined as the statewide bibliographic database containing all the bibliographic records with their associated local holdings and coded information (including but not limited to, regional network codes and record hierarchy codes used for deduplication/merging) that are contained within the most current version of the Web-accessible single union catalog.

g. The term "RFP" as used herein means the State of Connecticut Request For Proposal, Connecticut State Library, RFP NO. 023-A-28-7057 issued on May 15, 2003.

h. The term "Service" or "Service Work" as used herein is defined as any Supplier furnished computer resource and/or functional service of any kind including, but not limited to, any aggregate of Supplier software configured in addition to, or in support of, an Application System (defined below) and hardware resources required to aid any Application System processing function performed by said Application System.

i. The Service Schedule, which is attached hereto, establishes the Service periods and associated pricing applicable to any Service then available to Customer under this Agreement. All pricing and charge algorithms shall be defined in the Service Schedule.

j. "Specification" is the Supplier's published detailed description of a Service's capabilities and/or intended use.

k. "Delivery Date" is the date the Customer receives functional deliverables from the Supplier which are ready for acceptance testing.

3. ACQUISITION OF SERVICE

a. Subject to the terms and conditions of this Agreement, Supplier agrees to provide any Service, then available in the Service Schedule that is listed in Customer Letter Orders issued by the Contracts & Purchasing Division, Department of Information Technology (hereinafter referred to as "Letter Orders") and accepted by Supplier. Such Letter Orders shall be the sole method by which the Customer shall order Services and the Supplier shall be entitled to payment for only Services listed in a Letter Order. The Letter Order shall contain, as a minimum, the following related information:

- 1) Identity of this Agreement by Reference No. & the Service Schedule
- 2) Requested Service Start Date
- 3) Applicable Service User Site, Agency and Manager
- 4) Pertinent System and Application(s) Description
- 5) Service Specifications, calendar Period (including hours of usage, if applicable, to be made available to Customer),
- 6) Periodic Charge Rate(s) (as applicable) and Quantity Extensions
- 7) Implementation or Other One-Time Charges (If Any)

- 8) Surcharge Rate(s) (If Any)
- 9) Service Acceptance Test Criteria in addition to those specified herein (as applicable)

b. Supplier may update the Service Schedule at any time to make additional Services and/or periods of use available to the Customer, providing the effective date of each update is stated thereon and the update is transmitted to the Customer by a cover letter documenting formal approval of the update by a Supplier representative then legally empowered to so act. The addition or upgrading of a service is conditioned upon the new service being of a similar nature and having a similar use as the Services set forth in this Agreement and the written approval of the Customer.

c. Supplier shall honor Customer "Letters of Intent" for the purpose of planning for the start of Service(s). Any such Letter shall be either followed by a Letter Order or canceled by Customer within a reasonable time; however in no case shall such a Letter of Intent be considered a substitute method of ordering Services under this Agreement. Customer may cancel any Letter Order up to ten (10) days prior to the requested Service start date or when the performance of any Service fails to meet the requirements of Section 6. SERVICE EVALUATION AND ACCEPTANCE.

d. Each Service period shall begin on the Customer acceptance date and expire at twelve o'clock midnight (ET) on the last day of the month in which the period expires. Unless otherwise notified by Supplier at least sixty (60) days prior to said period expiration, Customer may order a month-to-month extension of any said Period.

e. Any Service may be terminated in accordance with Section 15 WARRANTY and Section 16. TERMINATION.

f. Any Service ordered under the terms of this Agreement shall enjoy price/rate increase protection for the duration of this Agreement.

- g. Customer shall be allowed to discount any Service Schedule pricing according to Supplier's discount policy then in effect when a Letter Order is issued.

4. CUSTOMER SUPPORT

Supplier shall provide such preinstallation and postinstallation Service(s) consultation, operating specifications, and procedural guidance to Customer so as to facilitate proper ordering, initiation, and operation of any Service(s) by Customer, in accordance with the Services Schedule or as otherwise indicated by Supplier in any subsequent Service (s) Schedule and/or in any Letter Order(s), Supplier shall not be obligated to provide the Customer with any Service(s) or other support without compensation therefor.

5. SERVICE STIPULATIONS

a. Supplier shall initiate Service on Customer's requested start date and shall begin service within fifteen (15) days of Customer's requested start date unless precluded by causes beyond Supplier's reasonable control. Supplier shall not initiate any Service later than fifteen (15) days after the Customer's requested start date without written Customer approval.

b. It is the objective of the Supplier, through proactive maintenance and monitoring, to resolve Service performance deficiencies before the Customer recognizes there has been a problem.

c. Customer shall undertake, at its own expense, to perform any work at the Customer site required for the ordered Service.

d. Supplier shall provide sufficient staff and resources to satisfy the Service performance reliability requirements specified in Section 6. SERVICE EVALUATION AND ACCEPTANCE and Section 14. MAINTENANCE OF SERVICE RELIABILITY herein, for any Service.

e. In order to assure that Service delivery is accomplished in a timely fashion, the Supplier represents that any Services offered in the Service Schedule and set forth in Attachments shall be provided within the time response requirements set forth in the applicable Letter Order. Said response time shall commence with the receipt of the appropriate input material from the Customer. For the purposes of this Section the hours between midnight Friday and 8 AM Eastern Time (ET) the following Monday shall be excluded from the computation of elapsed time, unless said hours, or any portion thereof, are both specifically offered in the Service Schedule and ordered in any Letter Order.

f. The Supplier represents that any file containing bibliographic data and or records (with associated holdings) provided by Supplier to the Customer in the provision of any Service shall be in MARC21 format unless otherwise specified by the Customer.

g. Ownership of any software specifically developed by Supplier to provide the Services under this Agreement, which has not been ordered, purchased and paid for by the Customer pursuant to a Letter Order covering any such Customer specific software and indicating that the Customer shall have an ownership interest in any such software, shall vest in and be owned solely and exclusively by the Supplier. Software used or otherwise provided by the Supplier in the performance of any Service under this Agreement, including without limitation, software developed by the Supplier in order to perform any such Service, is intended and shall be deemed for all purposes to be owned exclusively by the Supplier and licensed to the Customer on a non-exclusive basis for the purposes of availing itself of the benefits of the Service purchased by the Customer from the Supplier under and during the Term of this Agreement. Any data provided by or on behalf of the Customer to the Supplier shall remain the property of the Customer.

h. Master Database Escrow

1) Supplier must in accordance with this section provide the Master Database in MARC21 format to the Customer on an annual basis, at the conclusion of each annual term, at no cost to the Customer. Supplier's failure to supply the Master Database on an annual basis to the Customer in accordance

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with this section shall be considered a material breach of the Agreement and entitle the Customer to terminate this Agreement

i. Modification

1) The Customer shall have the right to request Customer ordered modifications to the service and Supplier may supply such modifications. Any such modification shall be made by qualified Supplier personnel, at Service Schedule rates then in effect.

2) The Customer shall own any modifications paid for by the Customer.

j. The Supplier shall be responsible for all routine maintenance of software used in the provision of any Service. For the purpose of clarification, routine maintenance of software includes but is not limited to in accordance with Section 15 WARRANTY of this Agreement:

1) Reasonable commercial effort to promptly correct any/all discrepancies/deficiencies regardless of the scope and level of effort associated with the task, and

2) All modifications to the system except for those which require major structural changes in a specified Customer design.

k. Specifically for purposes of its performance under this Agreement and this subsection thereof, the Supplier acknowledges that time is of the essence.

l. The Supplier agrees to make all functionality and services proposed for the RFP available for delivery and installation according to the Service Schedule which is attached hereto, and made part of this Agreement.

m. Upon termination of this Agreement for any reason (including default by either party) the Customer, upon written notice to Supplier, shall have the immediate right to obtain access to and possession of all its properties in Supplier's custody, including, but not limited to current copies of any programs and related documentation, files, intermediate materials and supplies, held by the Supplier. Supplier acknowledges that any failure or delay on its part in the delivery of such access and possession to Customer is and shall be deemed to be willful and a possible cause of irreparable injury to Customer, which may not be adequately compensable in damages, or for which Customer may have no adequate remedy at law. Supplier accordingly agrees that Customer may, in such event, seek and obtain injunctive relief in any court of competent jurisdiction as well as punitive damages for each day of such continued failure or delay.

n. The Supplier agrees to make a reasonable commercial effort to provide to the Customer, all assistance necessary for an orderly takeover of all affected Services at the time of termination of the Agreement regardless of the reason for such termination, including but not limited to, providing all files comprising the Master Database (bibliographic database and associated holdings) and Library Information Database, as specified in Section 13 FILE TRANSFER, providing all files needed to reconstitute the authentication system and Website on another system, providing all intermediate materials in the format and on the media specified by the Customer, returning all supplies and other

properties of the user at no further cost to Customer, and as further provided for in RFP Attachment 2 Sections 4.1.11 and 4.1.12.

o. Customer shall have the right to obtain supplier enhancements or modifications or major improvements as generally released at no charge to Company's Application Service Provider (ASP) customers or as in accordance with Section 7 UPGRADING SERVICES.

p. Supplier agrees to provide the Customer with at least 30 days' advance individual written notice of any new software releases, modifications, system upgrades or enhancements. Where the Supplier has previously provided the Customer with any custom software developed for the Customer, the Supplier will warrant that the new release, upgrade or enhancement will not interfere with the operation or functionality of such custom software. The Customer has the right to refuse to accept any of Supplier's proposed new software releases, modifications, system upgrades or enhancements that will interfere with the operation or functionality of the existing software or Service as determined by the Customer. In the event that Supplier discontinues any Service under this Agreement due to the availability of a new software release, modification, system upgrade or enhancement, the Customer shall have the right to either accept the new software release, modification, system upgrade or enhancement at no additional cost to the Customer or terminate this Agreement without any further liability on behalf of the Customer.

q. Supplier agrees not to use any of the Customer-provided electronic discussion or e-mail lists (established for use by the Customer) for its own communications without the prior written approval of the Customer.

6. SERVICE EVALUATION AND ACCEPTANCE

a. Any Service furnished under the terms of this Agreement shall be subject to a period of Customer evaluation and acceptance. Said period shall commence on the day next following written Supplier certification to the Customer that the Service has been initiated and ready to undergo evaluation and acceptance testing, defined as thirty (30) contiguous days of Service use which satisfies the test criteria adopted by the parties for such purposes specified in accordance with Section 5. SERVICE STIPULATIONS and Section 14. MAINTENANCE OF SERVICE RELIABILITY.

b. If any Service performance is unsatisfactory as defined in Subsection 6.a., due to circumstances beyond Supplier's control as defined in Subsection 8.g., the evaluation period then may upon agreement of the parties be immediately reinitiated for one additional thirty (30) day period.

c. Successful completion of a Service evaluation and acceptance period shall be determined by the Customer. The Service period shall be made effective on the Customer's Letter Order "Acceptance Date" which shall be considered to be the first day of the said successful Service evaluation and acceptance period. Customer agrees to complete any required Supplier acceptance certificate(s).

d. In the event any Service fails to be accepted as specified herein within sixty (60) days of initiation, the Customer may forthwith release the Supplier from further Service obligations therefor, thereby relieving both parties from any liability for the unacceptable Service. Customer has the option of allowing to Supplier one (1) additional thirty (30) day evaluation and acceptance period in the event of such failure.

7. UPGRADING SERVICE

a. Customer may order upgrading of any Service item with any other functionally related Service item, provided that said upgraded Service item: (1) is then available on the Service Schedule to the Customer at the time of the Customer's upgrade order, and, (2) addresses similar functions while possessing equal or greater performance capability, and, (3) shall have a Service period not less than that remaining for the item replaced, but of at least six (6) months duration.

b. Any upgraded Service ordered by Customer shall enjoy price/rate protection for the Service period established at time of upgrade.

c. No financial penalties shall be assessed to the Customer as a result of any Service upgrading by the supplier.

d. Supplier shall fix all defects in services without additional charge to customer.

8. GENERAL PROVISIONS

a. Section headings and document titles serviced in this Agreement are included for convenience of reference only and are not part of the substantive provisions herein.

b. The terms and conditions of the Agreement shall prevail in the event of any conflict with the terms and conditions of any Letter Order submitted by Customer for any Service, unless otherwise expressly agreed by the parties.

c. In the event any provision of this Agreement is decided by a proper authority to be invalid, the remaining provisions of this Agreement shall be unimpaired and the invalid provision shall be replaced by a provision which, being valid, comes closest to the intention underlying the invalid provision.

d. Supplier warrants that all Service rates/pricing and associated offerings in this Agreement are equivalent to or better than those comparable Supplier offerings to any other state or local government customer. If, during the life of this Agreement, Supplier provides more favorable terms for said offerings to another such customer, this Agreement shall thereupon be deemed amended to provide same to Customer.

e. The failure at any time by either party to this Agreement to require performance by the other party of any provision herein shall not affect in any way the full right to require such performance at any time thereafter. The waiver by either party of a breach of any such provision shall not constitute a waiver of the provision itself, unless such a waiver is expressed in writing and signed by a duly authorized representative of the waiving party.

f. In any case where the consent or approval of either party is required to be obtained under this Agreement, such consent or approval shall not be unreasonably withheld or delayed. No such consent or approval shall be valid unless in writing and signed by a duly authorized representative of the consenting

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or approving party. Such consent or approval shall apply only to the given instance, and shall not be deemed a consent to, or approval of, any subsequent like act or inaction by either party.

g. Neither party shall be responsible for delays or failures in its obligations herein, due to any cause beyond its reasonable control provided the non-performing party and its subcontractors are without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, work around plans or other means. Such causes might include strikes, lockouts, riot, sabotage, rebellion, insurrection, acts of war or the public enemy, unavailable raw materials, terrorist attacks, telecommunications or, fire, flood, earthquake, epidemics, natural disasters, and acts of God, government or the judiciary.

h. The Supplier agrees that the files, programs, input materials and output materials, and the media upon which they are inscribed including cards, tapes, disks and other storage facilities utilized in performing the processing Services covered by this Agreement supplied by Customer or Customer representative or agent are the property of the Customer. The Supplier agrees to use its best efforts to protect said material from levy, access or custody, by or upon the authority of, any creditor or representative of the Supplier.

i. In the event Supplier shall cease conducting business, the Customer shall thereupon own all programs and other Supplier materials developed solely for Customer and used in the Services contracted for herein. Access thereto shall be unrestricted, and Supplier shall assist the Customer in obtaining access thereto and possession thereof in such manner so as to prevent disruption of Customer's operations. The Supplier shall assist the Customer in every possible manner in arranging for the orderly transfer of all supplied Service activities to the Customer or another supplier.

j. The Customer shall be permitted access to all Customer supplied files maintained and used by the Supplier in the processing of Customer supplied information during the Supplier's normal business hours and upon reasonable advance notice by the Customer to the Supplier. Such access as indicated herein, shall not be unreasonably denied by Supplier.

k. All files used in the processing of Customer information, and as further enumerated in RFP Attachment 2 Section 4.1.11, and the media upon which such files are inscribed are the sole and exclusive property of the Customer. Supplier, at Customer request, shall evidence such ownership by prominently displaying a Customer supplied plaque, emblem and/or decal thereon as evidence of such ownership.

l. The Supplier warrants that it will retain all information belonging to the Customer in strictest confidence, and will neither use it nor disclose it to any third party without prior explicit written permission of an authorized representative of the Customer. The Supplier recognizes that Customer could suffer irreparable harm by disclosure of information relating to Customer's business and, accordingly, that Customer hereby prohibits any such disclosure. The Customer shall from time to time furnish to Supplier lists of authorized Customer personnel who may be permitted access to information in the files held by Supplier, and Supplier agrees not to permit any access thereto to any Customer personnel except those so listed.

m. The Supplier agrees, at Customer's written request following the completion of all Service(s) rendered by Supplier to the Customer under this agreement to destroy all Customer files used in any

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Customer ordered Service(s) maintained in Supplier's possession, custody or control. Such destruction shall take the form of degaussing of magnetic media, shredding of paper media, or clearing/reset of logic circuits as applicable or other means acceptable to Customer.

n. The Customer shall have the right at its expense and no additional charge (and is encouraged to do so by the Supplier) to reproduce any documentation supplied hereunder, provided that such reproduction shall be subject to the same restrictions on use and disclosure if any as are contained in this Agreement with respect to the original documentation.

o. Supplier covenants and agrees that it shall not, without prior written consent from Customer, which consent shall not be unreasonably withheld, make any reference to Customer in any Supplier advertising or news releases. Customer acknowledges that Supplier is subject to the public reporting responsibilities under the Federal securities laws.

p. Cross Guaranties

1) Where negative covenants (restrictions or activities) are involved: If any Affiliate of Supplier shall take any action which would constitute a breach of this Agreement, such action shall be deemed a breach by Supplier with like legal effect.

2) Where affirmative guarantees are sought: By their signatures to this Agreement, any Affiliate, if applicable, hereby, jointly and severally with Supplier, guarantees the full and timely performance hereof as witnessed by their signatures which are affixed to this Agreement.

q. Supplier shall not subcontract or permit anyone other than Supplier personnel to perform any of the work, services or other performance required of Supplier under this Agreement without the prior written consent of the Customer and such consent shall not be unreasonably withheld.

9. ORDER OF PRECEDENCE

In the event of conflict of terms and conditions between the RFP, the Supplier proposal response, this Agreement and subsequent correspondence between the parties to this Agreement, the order of precedence is:

- 1) This Agreement (B-04-005)
- 2) Auto-Graphics, Inc., Clarifications questions and answer document dated 10/12/04
- 3) RFP 023-A-29-7057 and its amendments dated 5/15/03
- 4) Auto-Graphics, Inc., proposal response to RFP dated 7/14/03

Nothing herein shall obligate the Supplier to provide a Service listed in the RFP which did not require or elicit an affirmative response from the Supplier and to which the Supplier provided a negative response in its proposal, unless otherwise specified by Supplier in a clarification letter listed in Section 9(2) or pursuant to an amendment to this Agreement.

10. SUPPLIER PATENT, COPYRIGHT, LICENSE AND PROPRIETARY RIGHTS

a. The Supplier warrants and represents that all non-Supplier owned software in use at Supplier's installation has been procured by Supplier under valid licenses from the manufacturer or other owners thereof, and that Supplier is not now, nor shall Supplier be, during the term of this Agreement, in default under any such license. Supplier shall not utilize any software product during the term of this Agreement which may cause the Customer to be charged with infringement upon or violation of the rights of any owner thereof. Supplier grants Customer a nontransferable, nonexclusive license and limited proprietary rights to copy, modify and use any patented, copyrighted, licensed, or proprietary software documentation that is Supplier owned. Supplier retains title to any such documentation. Customer shall maintain the confidentiality of any such Product consistent with its privileged nature, and shall not divulge nor make it available to any third party. This obligation survives termination of this Agreement.

b. Customer agrees that the following form of Supplier copyright notice and derivations thereof: "Auto-Graphics, Inc., Pomona, California © 1995 - ____ - All Rights Reserved may be placed on one (1) screen. Supplier must obtain Customer approval of other placements of said notice.

c. Customer may reproduce any portion of any said Service software in machine readable form as is necessary to support Customer's own use thereof; however, any copies thereof shall be subject to the terms and conditions stated herein.

d. Supplier agrees to defend any patent, copyright, license or proprietary rights infringement claim or proceeding pertaining to Customer use of any Service, except where Customer modifies or adapts said Service without Supplier consent. Supplier agrees to satisfy any final award arising from any said claim or proceeding. Customer agrees to give Supplier prompt written notice of any impending said claim or proceeding, and agrees to Supplier's right to conduct any defense thereof.

e. In connection with the Customer's participation in the resource sharing (library-to-library) function of the Service, the Supplier hereby agrees to indemnify and hold harmless the Customer against any and all claims, debts and liabilities against the Customer arising out of or otherwise relating to such participation and this indemnification shall not be limited by insurance coverage or lack thereof ("Special Indemnification"). If any claim is made or threatened against the Customer which is or may be covered by this Special Indemnification, then the Customer agrees to promptly notify the Supplier in writing of any such communication and provide the Supplier with a copy of any such communication and provide the Supplier with a copy of any such notice which is in writing or capable of being reduced to writing ("Customer's Notice"). The Supplier shall not be relieved of its obligations under this Special Indemnification upon the failure of the Customer to promptly provide the Customer Notice absent the Supplier proving material prejudice. Upon receipt of the Customer's Notice, the Supplier will assume responsibility for defending the Customer against the Claim; and at its option, the Customer can also elect to participate in the defense of such Claim. The Supplier will promptly pay any and all of Customer's reasonable costs associated with or arising from such Claim, including any judgment resulting therefrom.

f. In the event any said Service becomes the actual or prospective subject of any said claim or proceeding, Supplier may, at its discretion: (1) modify the Service or substitute another equally suitable Service (providing such alternative does not degrade the System performance capability), or (2) obtain for Customer the right to continued Service use, or (3) if Service use is prevented by injunction, credit Customer for any charges unearned as a result of enjoined Service use.

g. Customer reserves the right to preserve any Customer data stored on any media deemed in default of, or infringing on, any patent, copyright, license or proprietary rights through whatever means the Customer selects prior to releasing said media to Supplier. In this regard, any said data stored on any Supplier Service media which has been provided to Customer, shall be erased prior to other use by Supplier. The Customer reserves the right to participate in any said legal proceedings to the extent necessary to protect Customer's data stored on any Supplier media.

h. The foregoing states the entire rights and liabilities of both parties for any loss or damage whatsoever arising from any Service patent, copyright, license, or proprietary rights infringement except that, if Customer data cannot be preserved and/or erased as provided for in Subsection 10.e., Supplier shall be liable for any cost of recovery of said Customer data and shall hold Customer harmless from any resultant suits and claims of invasion of personal privacy, and this right shall inure beyond the life of this Agreement.

i. The obligations of the parties to one another, as set forth in this Section 10 of the Agreement are intended to and shall for all purposes survive the termination of this Agreement.

11. RISK OF LOSS AND INSURANCE

a. Supplier shall be liable for any risk of loss or damage to any Service related material while said material is in transit to a Customer site, or while in Supplier's possession, except when such loss or damage is due directly to Customer negligence. The Customer shall be liable for any risk of loss or damage to any Service related material while said material is in transit to the Supplier, or in Customer's possession, except when such loss or damage is due directly to Supplier negligence.

b. In the event Supplier employees or agents enter premises occupied by or under control of Customer in the performance of their responsibilities, Supplier shall indemnify and hold Customer harmless from any loss, cost, damage, expense or liability by reason of tangible property damage or personal injury, of any nature or any kind, caused by the performance or act of said employees or agents. Without limiting the foregoing, Supplier shall maintain public liability and property damage insurance within reasonable limits covering the obligations contained herein, and shall maintain proper workers' compensation insurance in accordance with Section 23. WORKERS' COMPENSATION.

12. PAYMENTS AND CREDITS

a. Any periodic and/or one-time Service charges shown in each Attachment shall be payable by Customer after receipt of the Supplier invoice applicable to the calendar month or other period during which Supplier has provided said Service to Customer (hereinafter referred to as the "Due Date"). Any such charges for a partial month or period shall be prorated.

b. Since pricing is based on Delivery Date, and time is of the essence, a discount of \$100 a day shall be allocated for those deliverables not received within a five (5) day grace period of the

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Delivery Date. If such delivery is not within the control of Supplier, then such Delivery Date shall be extended until such a time the reason for non-delivery is cured.

- c. Supplier assignment of any part of this Agreement, or any Customer payments hereunder, to any third party, shall not relieve Supplier of any obligations under this Agreement without prior written Customer consent in each such instance.
- d. Notwithstanding any such assignment, Supplier agrees that Customer shall have quiet use and enjoyment of Service, free of any claims by Supplier or its successors and assigns, subject only to the terms and conditions of this Agreement, providing Customer is not in default hereunder.
- e. The Supplier or its successors and assigns, not the Customer, shall be entitled to any depreciation or investment tax credit as applicable to any Service related material under this Agreement.
- f. No "Installation Charges" shall be paid by Customer for any Service on any Attachment.
- g. Any Service charges shall be based on the Service Schedule rates attached to this Agreement. Customer shall not be liable to Supplier for any Service, surcharge, or one-time charge unless an authorized Customer representative has ordered said Service on Attachments, or has specifically approved said Service charge(s) for a given service period or occasion.
- h. Supplier shall furnish separate invoices for each Customer site as stipulated in Attachments for each Letter Order, and any applicable recurring and/or one-time Service charges shall be included as separate line items on each said Customer Service invoice.
- i. If Customer defaults by not paying any sum due under this Agreement promptly, or removes any Service related material from its installed site without prior written consent of Supplier, and such default or removal continues for more than thirty (30) days after Customer receipt of written Supplier notice thereof, then Supplier, at its option and without further notice, shall have the immediate right to cease the applicable Service and repossess any related material, if applicable.
- j. The Supplier shall be liable for taxes and similar assessments on any Service and for any interest charge or penalty imposed for late payment or nonpayment of such assessments. The parties acknowledge that the Supplier is exempt from taxes imposed to its gross receipts from the sale of and storage, use or other consumption in Connecticut pursuant to the provisions of Connecticut General Statutes Section 12-412 for the Services provided to the Customer under this Agreement. The Customer agrees to provide the Supplier with a Certificate of Exemption.
- k. The Customer shall have the right to set off those actual, reasonable and necessary costs: (a) incurred due to the Supplier's noncompliance with this Agreement; or (b) associated with any other such amounts that are due and payable to the Customer from the Supplier; against amounts otherwise due the Supplier under this Agreement. If such amounts are insufficient to cover the Customer's expenses resulting from such noncompliance or indebtedness, the Customer shall have the right to pursue all remedies, legal or equitable, which the Customer hereby retains.

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1. At the beginning of each contract year, 20% of the sum of the quarterly annual fee and the annual one-time fee (if any) for that year will be held back pending acceptance of all items scheduled for delivery that year. If all deliverables for a contract year are scheduled for delivery at the beginning of the contract year, then the entire holdback amount would be held at the beginning of the contract year and released in full upon satisfactory completion of the acceptance test. This applies to Years 2 and 3 when all deliverables are scheduled for delivery at the beginning of the contract year.

For Year 1, deliverables are scheduled to be delivered in three phases (Day 1, September 1 and December 1), and the deliverables having the most impact on the entire system are scheduled for Day 1. Accordingly, the entire holdback amount, as calculated above, will be released in phases corresponding to the three delivery phases. When Phase 1 deliverables are accepted, the state will return 80% of the monies held back. When Phase 2 deliverables are accepted, the state will return 10% of the monies held back. When Phase 3 deliverables are accepted, the state will return the balance (10%) of the monies held back.

In subsequent contract years, if deliverables are scheduled to be delivered in phases, then the holdback amount will be released in proportionately equal amounts according to the number of phases. For example, if the deliverables are delivered in four phases, then the state will return 25% of the holdback amount following acceptance of each successive phase.

In contract years where there are no new deliverables, there would be no holdback.

13. FILE TRANSFERS

a. At any time following the completion and/or updating by Supplier of the Master Database, if requested in writing by the Customer, the Supplier shall within fourteen (14) days after receiving any such written request provide on high-density media or via electronic file transfer an export sample of at least 5,000 records derived from the Master Database. The sample must be representative of the diversity of data sources in the Master Database, including serials and GPO records. The records must contain within the bibliographic record (not as a separate file) all associated holdings and coded information, including regional network codes and record hierarchy codes used for deduplication/merging. The records must be in MARC21 format with holdings consistently tagged and subfielded. The Supplier agrees to provide or transfer the file as directed by the Customer in accordance with the provisions and the rates set forth in the Services Schedule or as otherwise mutually agreed to in writing by the parties at the time of any such request.

b. At any time following the completion and/or updating by Supplier of the Master Database, if requested in writing by the Customer, the Supplier shall within thirty (30) days after receiving any such written request provide on high-density media an export of all the files comprising the Master Database. The records must contain within the bibliographic record (not as a separate file) all associated holdings and coded information, including regional network codes and record hierarchy codes used for deduplication/merging. The database must be in MARC21 format with holdings consistently tagged and subfielded. The Supplier agrees to provide or transfer the files as directed by the Customer in accordance with the provision and the rates set forth in the Services Schedule or as otherwise mutually agreed to in

writing by the parties at the time of any such request, except that upon termination of the contract there will be no charge to the customer.

c. If requested in writing by the Customer, the supplier shall within thirty (30) days after the receipt of any such request provide on high density media a copy of all the files comprising the Library Information Database, which is described in RFP Attachment 2 Section 4.3.2.7. The Supplier agrees to provide or transfer the file as directed by the Customer in accordance with the provisions and rates set forth in the Services Schedule or as otherwise mutually agreed to in writing by the parties at the time of any such request, except that upon termination of the contract there will be no charge to the customer.

14. MAINTENANCE OF SERVICE RELIABILITY

a. The reliability, at any point in time, of any applicable Supplier Service, and any associated material, shall be determined by the operational capability of said Service for productive Customer usage within the Customer's operating environment. Continued acceptability of the performance reliability of said Service shall be based on Subsections 14.b, 14.c, 14.d, and 14.e, below.

b. The required operational reliability of Service during any calendar month is that the outputs of said Service shall be consistently error free. All errors discovered shall be corrected by the Supplier without cost to the Customer. In furtherance but not in limitation of the foregoing, Supplier shall be deemed in default if errors occur in excess of the Error Percentage as defined in Subsection 14.c.. Supplier further warrants that said outputs of said Service shall be uniform in appearance, clean and presentable, in accordance with generally accepted standards. It shall be the responsibility of the applicable Customer site to maintain adequate records to substantiate any Customer claims of default as defined in Section 14. MAINTENANCE OF SERVICE RELIABILITY.

c. Error Percentage shall be determined by dividing the total number of output characters which are correctly produced during an applicable period into the total number of output characters which are incorrect. This Error Percentage is not to exceed a 0.01% rate for any period used in performing the aforesaid calculation.

d. There shall be an additional criteria (Required Percent Availability) established in the Letter Order as a measurement of reliability. Said Required Percent Availability must have a minimum value of 98% of specified availability. Availability means online access to all patron and staff services 24 hours a day, 7 days a week, 365 days a year except as provided in the Proposal Response at RFP Attachment 2 Section 4.1.6 #5(a).

e. There shall be an additional criteria (Performance Requirements) as provided in the Proposal Response at RFP Attachment 2 Section 4.1.7.

15. WARRANTY

1. If there is a performance deficiency in the authentication system or in the Web Hosting system that prevents patrons from being able to access one or more licensed databases, the Supplier will make a reasonable commercial effort, with an objective of four (4) business hours to determine

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whether the performance deficiency is or is not the result of the non-performance of the Supplier's Service.

- a) If the Supplier determines that the performance deficiency is the result of the non-performance of the Supplier's Service, the Supplier will make a reasonable commercial effort to correct such performance deficiency within a cure period of twelve (12) hours from the time this determination is made.
- b) If the performance deficiency continues beyond this period, the Supplier shall be in default of this Agreement and the Customer is entitled to deduct from each subsequent Customer payment the Service charge, prorated to a monthly basis, for each month or portion thereof that the performance deficiency continues beyond the cure period unless otherwise agreed to by both parties.
- c) If the Supplier determines that the performance deficiency is not the result of the non-performance of the Supplier's Services, the Supplier will notify Customer at that time but will continue to be available to assist in problem determination analysis.

2. If any other major service component affecting services intended for patrons (e.g. Web Hosting and Dynamic Content Management Services, Library Portal, PAC, and ILL) becomes unavailable to patrons, the Supplier will have up to four (4) business hours to determine whether the performance deficiency is or is not the result of the non-performance of the Supplier's Service.

- a) If the Supplier determines that the performance deficiency is the result of the non-performance of the Supplier's Service, the Supplier will correct such performance deficiency within a cure period of forty-eight (48) hours from the time this determination is made.
- b) If the performance deficiency continues beyond this period, the Supplier shall be in default of this Agreement and the Customer is entitled to deduct from each subsequent Customer payment the Service charge, prorated to a monthly basis, for each month or portion thereof that the performance deficiency continues beyond the cure period unless otherwise agreed to by both parties.
- c) If the Supplier determines that the performance deficiency is not the result of the non-performance of the Supplier's Services, the Supplier will notify Customer at that time but will continue to be available to assist in problem determination analysis.

3. If any major service component affecting services intended for staff (e.g. Web Hosting and Dynamic Content Management Services, Library Portal, Authentication, PAC, ILL, Holdings Maintenance, MARC Editor) becomes unavailable to participating libraries, the Supplier will have up to four (4) business hours to determine whether the performance deficiency is or is not the result of the non-performance of the Supplier's Service.

- a) If the Supplier determines that the performance deficiency is the result of the non-performance of the Supplier's Service, the Supplier will correct such performance deficiency within a cure period of forty-eight (48) hours from the time this determination is made.
- b) If the performance deficiency continues beyond this period, the Supplier shall be in default of this Agreement and the Customer is entitled to deduct from each subsequent Customer payment the Service charge, prorated to a monthly basis, for each month or portion thereof that the performance deficiency continues beyond the cure period unless otherwise agreed to by both parties.

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- c) If the Supplier determines that the performance deficiency is not the result of the non-performance of the Supplier's Services, the Supplier will notify Customer at that time but will continue to be available to assist in problem determination analysis.
- 4. If there is a performance deficiency in one or more of the Supplier's service components (e.g. Web Hosting and Dynamic Content Management Services, Library Portal, Authentication, PAC, ILL, Holdings Maintenance, MARC Editor) that affects two or more participating libraries, the Supplier will have up to four (4) business hours to determine whether the performance deficiency is or is not the result of the non-performance of the Supplier's Service.
 - a) If the Supplier determines that the performance deficiency is the result of the non-performance of the Supplier's Service, the Supplier will correct such performance deficiency within a cure period of fourteen (14) calendar days from the time that this determination is made.
 - b) If the performance deficiency continues beyond this period, the Supplier shall be in default of this Agreement and the Customer will be entitled to deduct from each subsequent Customer payment the Service charge, prorated per library on a monthly basis, for each month or portion thereof that the performance deficiency continues beyond the cure period unless otherwise agreed to by both parties.
 - c) If the Supplier determines that the performance deficiency is not the result of the non-performance of the Supplier, the Supplier will notify Customer at that time but will continue to be available to assist in problem determination.
- 5. If there is a performance deficiency in one or more of the Supplier's service components (e.g. Web Hosting and Dynamic Content Management Services, Library Portal, Authentication, PAC, ILL, Holdings Maintenance, MARC Editor) that affects only one participating library, the Supplier will have up to two (2) calendar days to determine whether the performance deficiency is or is not the result of the non-performance of the Supplier's Service.
 - a) If the Supplier determines that the performance deficiency is the result of the non-performance of the Supplier's Service, the Supplier will correct such performance deficiency within a cure period of up to (30) calendar days from the time that this determination is made.
 - b) If the performance deficiency continues beyond the cure period, the Supplier shall be in default of this Agreement and the Customer will be entitled to deduct from each subsequent Customer payment the Service charge, prorated to a monthly basis, for each month or portion thereof that the performance deficiency continues beyond the cure period unless otherwise agreed to by both parties.
 - c) If the Supplier determines that the performance deficiency is not the result of the non-performance of the Supplier's Services, the Supplier will notify Customer at that time but will continue to be available to assist in problem determination analysis.
- 6. In the event that a Service performance deficiency as described in paragraphs 15(1), 15(2), 15(3) and 15(4) continues for thirty (30) calendar days or a Service performance deficiency as described in paragraph 15(5) continues for sixty (60) calendar days beyond the cure period, the Customer may terminate this Agreement as it relates to said Service without any Customer penalty, further obligation or financial liability.

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7. In the event that after a cure of a Service performance deficiency, the Service performance requirements cannot be maintained for an uninterrupted period of not less than seven (7) calendar days without a major or minor Service performance deficiency, then any subsequent Service performance deficiency shall relate back to the original Service performance deficiency as if the cure had not been effective and Customer will have the right to invoke the remedies set forth in this Agreement.

16. TERMINATION

Not by way of diminishing any termination rights set forth in Section 1(b) of this Agreement, Customer may terminate for the reasons stated below for other than an uncured Service performance deficiency or default on the part of Supplier, any Service on any Attachment, by releasing Supplier from further responsibility to provide such Service. Upon such termination, Customer shall be relieved of any further obligations with respect to such item unless otherwise required in this section.

a. Fiscal Funding: Upon sixty (60) days' written notice to Supplier, Customer may terminate any Service as of the first day of the period for which sufficient funds to meet its obligations under this Agreement are not appropriated or allocated. Customer shall pay any Service charges due prior to the nonfunded period. If the necessary funding becomes available within ninety (90) days of such termination, Customer and Supplier agree to resume said Service under the original terms applicable to that Service, unless such resumption is mutually declined.

17. COMMUNICATIONS

Unless notified otherwise by the other party in writing:

- a. Correspondence, notices, and coordination between the parties to this Agreement as to general business matters or the terms and conditions herein should be directed to:

Customer - Department of Information Technology
Contracts and Purchasing
101 E. River Drive – East Hartford, CT 06108
Supplier - As stated in page one of this Agreement

Notices sent by United States mail with postage prepaid shall become effective when mailed.

- b. Details regarding Supplier invoices and all technical or day-to-day administrative matters pertaining to any Product and related service should be directed to:

Customer - The Agency Site Manager specified in the applicable Letter Order

Supplier - As stated in page one of this Agreement

18. LIMITATION OF LIABILITY

In no event shall either party be liable for special, indirect or consequential damages except as may otherwise be provided for in this Agreement.

19. NONDISCRIMINATION AND AFFIRMATIVE ACTION PROVISIONS

Supplier agrees to comply with Section 4a-60 of the General Statutes of Connecticut, as revised.

a. For the purposes of this section, "minority business enterprise" means any small contractor or supplier of materials fifty-one per cent or more of the capital stock, if any, or assets of which is owned by a person or persons: (1) Who are active in the daily affairs of the enterprise, (2) who have the power to direct the management and policies of the enterprise and (3) who are members of a minority, as such term is defined in Subsection (a) of Conn. Gen. Stat. Section 32-9n; and "good faith" means that degree of diligence which a reasonable person would exercise in the performance of legal duties and obligations. "Good faith efforts" shall include, but not be limited to, those reasonable initial efforts necessary to comply with statutory or regulatory requirements and additional or substituted efforts when it is determined that such initial efforts will not be sufficient to comply with such requirements.

For the purposes of this section, "commission" means the commission on human rights and opportunities.

For the purposes of this section, "public works contract" means any agreement between any individual, firm or corporation and the state or any political subdivision of the state other than a municipality for construction, rehabilitation, conversion, extension, demolition or repair of a public building, highway or other changes or improvements in real property, or which is financed in whole or in part by the state, including, but not limited to, matching expenditures, grants, loans, insurance or guarantees.

b. (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved, in any manner prohibited by the laws of the United States or of the state of Connecticut. The contractor further agrees to take affirmative action to insure that applicants with job-related qualifications are employed and that employees are treated when employed without regard to their race, color, religious creed, age, marital status, national origin, ancestry, sex, mental retardation, or physical disability, including, but not limited to, blindness, unless it is shown by such contractor that such disability prevents performance of the work involved; (2) the contractor agrees, in all solicitations or advertisements for employees placed by or on behalf of the contractor, to state that it is an "affirmative action-equal opportunity employer" in accordance with regulations adopted by the commission; (3) the contractor agrees to provide each labor union or representative of workers with which

such contractor has a collective bargaining agreement or other contract or understanding and each Supplier with which such contractor has a contract or understanding, a notice to be provided by the

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commission advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (4) the contractor agrees to comply with each provision of this section and Conn. Gen. Stat. Sections 46a-68e and 46a-68f and with each regulation or relevant order issued by said commission pursuant to Conn. Gen. Stat. Sections 46a-56, 46a-68e and 46a-68f; (5) the contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor as relate to the provisions of this section and Conn. Gen. Stat. Section 46a-56. If the contract is a public works contract, the contractor agrees and warrants that he will make good faith efforts to employ minority business enterprises as subcontractors and suppliers of materials on such public works project.

c. Determination of the contractor's good faith efforts shall include but shall not be limited to the following factors: The contractor's employment and subcontracting policies, patterns and practices; affirmative advertising, recruitment and training; technical assistance activities and such other reasonable activities or efforts as the commission may prescribe that are designed to ensure the participation of minority business enterprises in public works projects.

d. The contractor shall develop and maintain adequate documentation, in a manner prescribed by the commission, of its good faith efforts.

e. The contractor shall include the provisions of Subsection b of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, Supplier or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with Conn. Gen. Stat. Section 46a-56; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or Supplier as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

f. The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

20. NONDISCRIMINATION PROVISIONS REGARDING SEXUAL ORIENTATION

This section is inserted in this contract in connection with Subsection (a) Section 4a-60a of the General Statutes of Connecticut, as revised.

a. (1) The contractor agrees and warrants that in the performance of the contract such contractor will not discriminate or permit discrimination against any person or group of persons on the grounds of sexual orientation, in any manner prohibited by the laws of the United States or of the state of Connecticut, and that employees are treated when employed without regard to their sexual orientation; (2) the contractor agrees to provide each labor union or representative of workers with which such contractor has a collective bargaining agreement or other contract or understanding and each Supplier with which such contractor has a contract or understanding, a notice to be provided by the commission on human

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rights and opportunities advising the labor union or workers' representative of the contractor's commitments under this section, and to post copies of the notice in conspicuous places available to employees and applicants for employment; (3) the contractor agrees to comply with each provision of this section and with each regulation or relevant order issued by said commission pursuant to section 46a-56 of the general statutes; (4) the contractor agrees to provide the commission on human rights and opportunities with such information requested by the commission, and permit access to pertinent books, records and accounts, concerning the employment practices and procedures of the contractor which relate to the provisions of this section and section 46a-56 of the general statutes.

b. The contractor shall include the provisions of Subsection a of this section in every subcontract or purchase order entered into in order to fulfill any obligation of a contract with the state and such provisions shall be binding on a subcontractor, Supplier or manufacturer unless exempted by regulations or orders of the commission. The contractor shall take such action with respect to any such subcontract or purchase order as the commission may direct as a means of enforcing such provisions including sanctions for noncompliance in accordance with section 46a-56 of the general statutes; provided, if such contractor becomes involved in, or is threatened with, litigation with a subcontractor or Supplier as a result of such direction by the commission, the contractor may request the state of Connecticut to enter into any such litigation or negotiation prior thereto to protect the interests of the state and the state may so enter.

c. The contractor agrees to comply with the regulations referred to in this section as they exist on the date of this contract and as they may be adopted or amended from time to time during the term of this contract and any amendments thereto.

21. EXECUTIVE ORDER NO. THREE

This contract is subject to the provisions of Executive Order No. Three of Governor Thomas J. Meskill promulgated June 16, 1971 and, as such, this contract may be canceled, terminated or suspended by the state labor commissioner for violation of or noncompliance with said Executive Order No. Three, or any state or federal law concerning nondiscrimination, notwithstanding that the labor commissioner is not a party to this contract. The parties to this contract, as part of the consideration hereof, agree that said Executive Order No. Three is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the state labor commissioner shall have continuing jurisdiction in respect to contract performance in regard to nondiscrimination, until the contract is completed or terminated prior to completion.

The contractor agrees, as part consideration hereof, that this contract is subject to the Guidelines and Rules issued by the state labor commissioner to implement Executive Order No. Three, and that he will not discriminate in his employment practices or policies, will file all reports as required, and will fully cooperate with the State of Connecticut and the state labor commissioner.

22. EXECUTIVE ORDER NO. SIXTEEN

This contract is subject to the provisions of Executive Order No. Sixteen of Governor John G. Rowland promulgated August 4, 1999, and, as such, this contract may be canceled, terminated or suspended by the contracting agency for violation of or noncompliance with said Executive Order No. Sixteen.

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The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Sixteen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting State shall have jurisdiction in providing its employees a reasonably safe and healthy working environment, free from intimidation, harassment, threats, and /or violent acts.

23. EXECUTIVE ORDER NO. SEVENTEEN

This contract is subject to the provisions of Executive Order No. Seventeen of Governor Thomas J. Meskill promulgated February 15, 1973, and, as such, this contract may be canceled, terminated or suspended by the contracting agency or the State Labor Commissioner for violation of or noncompliance with said Executive Order No. Seventeen, notwithstanding that the Labor Commissioner may not be a party to this contract. The parties to this contract, as part of the consideration hereof, agree that Executive Order No. Seventeen is incorporated herein by reference and made a part hereof. The parties agree to abide by said Executive Order and agree that the contracting agency and the State Labor Commissioner shall have joint and several continuing jurisdiction in respect to contract performance in regard to listing all employment openings with the Connecticut State Employment Service.

24. WORKERS' COMPENSATION

As a non-resident, Supplier shall have insurance for benefits payable under Connecticut's Workers Compensation Law for any employee resident of and hired in Connecticut; and as respects any other employee protected by Worker Compensation laws of any other state Supplier shall have insurance or participate in a mandatory state fund to cover the benefits payable to any such employee.

25. DATE COMPLIANCE

a) The Contractor warrants that the system as a whole and each component of it, as applicable, is compliant with Year 2000 (Y2K) and all other dates, as specified in the business and technical requirements of the RFP.

Notwithstanding any provision to the contrary in any Contractor warranty or warranties, the remedies available to the State under this Year 2000 warranty shall include repair or replacement of any element of the System whose non-compliance with the Year 2000 warranty is discovered and made known to the Contractor in writing. This warranty remains in effect for 365 days following the Warranty Period of this agreement.

Nothing in this warranty shall be construed to limit any rights or remedies the State may otherwise have under this contract with respect to defects other than Year 2000 compliance. In addition, the Contractor warrants that elements of the System modified or remediated to achieve Year 2000 compliance will remain unaffected with respect to their functioning or performance except for processing and exchanging date/time data. The Contractor warrants that Deliverables not being modified or remediated directly will remain unaffected with respect to their normal functioning or performance.

The Contractor warrants that the system as a whole and each component of it, as applicable, is compliant with Year 2000 (Y2K) and all other dates, as specified in the business and technical requirements of the RFP.

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Notwithstanding any provision to the contrary in any Contractor warranty or warranties, the remedies available to the State under this Year 2000 warranty shall include repair or replacement of any element of the System whose non-compliance with the Year 2000 warranty is discovered and made known to the Contractor in writing. This warranty remains in effect for 365 days following the Warranty Period of this agreement.

Nothing in this warranty shall be construed to limit any rights or remedies the State may otherwise have under this contract with respect to defects other than Year 2000 compliance.

In addition, the Contractor warrants that elements of the System modified or remediated to achieve Year 2000 compliance will remain unaffected with respect to their functioning or performance except for processing and exchanging date/time data. The Contractor warrants that Deliverables not being modified or remediated directly will remain unaffected with respect to their normal functioning or performance.

26. REPORTS TO THE AUDITORS OF PUBLIC ACCOUNTS

This contract is subject to the provisions of §4-61dd Connecticut General Statutes. In accordance with this section any person having knowledge of any matter involving corruption, violation of state or federal laws or regulations, gross waste of funds, abuse of authority or danger to the public safety occurring in any large state contract, may transmit all facts and information in his possession concerning such matter to the Auditors of Public Accounts. In accordance with subsection (e) if an officer, employee or appointing authority of the contractor takes or threatens to take any personnel action against any employee of the contractor in retaliation for such employee's disclosure of information to the Auditors of Public Accounts or the Attorney General under the provisions of this section, the contractor shall be liable for a civil penalty of not more than five thousand dollars for each offense, up to a maximum of twenty per cent of the value of the contract. Each violation shall be a separate and distinct offense and in the case of a continuing violation each calendar day's continuance of the violation shall be deemed to be a separate and distinct offense. The executive head of the state or quasi- public agency may request the Attorney General to bring a civil action in the Superior Court for the Judicial District of Hartford to seek imposition and recovery of such civil penalty. In accordance with subsection (f) contractor shall post a notice of the provisions of this section in a conspicuous place that is readily available for viewing by the employees of the contractor.

27. CONNECTICUT GENERAL STATUTES, § 1-200 AND 1-218

This contract is subject to the provisions of the Connecticut General Statutes, §1-200 and 1-218. Each contract in excess of two million five hundred thousand dollars between a public agency and a person for the performance of a governmental function shall (1) provide that the public agency is entitled to receive a copy of records and files related to the performance of the governmental function, and (2) indicate that such records and files are subject to the Freedom of Information Act and may be disclosed by the public agency pursuant to the Freedom of Information Act. No request to inspect or copy such records or files shall be valid unless the request is made to the public agency in accordance with the Freedom of Information Act. Any complaint by a person who is denied the right to inspect or copy such records or files shall be brought to the Freedom of Information Commission in accordance with the provisions of sections 1-205 and 1-206 of the general statutes.

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28. GENERAL STATUTES SECTION 4d-44

This contract is subject to the provisions of Connecticut General Statutes Section 4d-44 – Continuity of systems in event of expiration or termination of contract, amendment or subcontract or default of contractor or subcontractor. contractor agrees to ensure continuity of the System and related services, in the event that work under this contract is transferred back to the State or transferred to a different contractor, upon the expiration or termination of the contract, subcontract or amendment or upon the default of the contractor or subcontractor. Contractor provisions shall include, but not be limited to, (1) procedures for the orderly transfer to the State of (A) such facilities and equipment, (B) all software created or modified pursuant to the contract, subcontract or amendment, and (C) all public records, as defined in section 4d-33, which contractor or subcontractor possesses or creates pursuant to such contract, subcontract or amendment, and (2) procedures for granting former State employees who were hired by contractor or subcontractor the opportunity for reemployment with the State.

The parties agree to enter into an amendment to this contract as soon as practicable to set out the express terms to comply with the provisions of C.G.S. §4d-44.

29. APPLICABLE LAW

The Supplier agrees that it will comply with the laws of the United States and the State of Connecticut in performing its obligations under this Agreement. This Agreement shall be governed, interpreted and construed under and in accordance with the laws of the State of Connecticut, except for any Connecticut law concerning a conflict of laws wherein the laws of another jurisdiction would apply to this Agreement. This Contract shall be deemed to have been made in Hartford, Connecticut.

30. APPROVAL OF AGREEMENT

This Agreement shall become effective upon its approval as to form by the Office of the Attorney General of the State of Connecticut.

31. ENTIRETY OF AGREEMENT

This Agreement includes the SIGNATURE PAGE OF AGREEMENT. To the extent the provisions of the previously mentioned Service Schedule and any aforementioned Attachment do not contradict the provisions of Sections 1 through 31 of this Agreement, said documents are incorporated herein by reference and made a part hereof as though fully set forth herein. This Agreement, as thus constituted, contains the complete and exclusive statement of the terms and conditions agreed to by the parties hereto and shall not be altered, amended, or modified except in writing executed by an authorized representative of each party.

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SIGNATURE PAGE OF AGREEMENT

This Agreement is entered into by authority of Sections 4d-2, 4d-5 and 4d-8 of the General Statutes.

Auto-Graphics, Inc.

BY: Patrick T. Bergamasco

NAME: Patrick T. Bergamasco

TITLE: Chief Executive Officer

DATE: December 2, 2004

State of Connecticut

BY: Elizabeth D. Petroni

Elizabeth D. Petroni,
Chief of Staff
Department of Information Technology

DATE: 12/4/04

SEAL

APPROVED AS TO FORM:

William B. Neri

Attorney General of
the State of Connecticut

Assoc. Atty. General

DATE: 12/7/04

RQST - 2004 System Features

RFP Subsection	Days to complete	Start Date	Planned Delivery Date	Actual Delivery Date	Comments
Year 1 Items					
All Mandatory and Core system requirements in Attachment 2 not listed below, including all responses to questions in plain text, except Subsection 4.1.6 #1b to d					
4.1.16.3 #1a (inclusive), #4, #4a	2	2/4/2004	2/5/2004	2/5/2004	Train Nelineet and iCONN staff
4.3.2.9.5.2 #1 (inclusive)	60	5/1/2004	7/1/2004	7/1/2004	Sort pending requests by call #, pick lists
4.1.2				7/1/2004	Desktop icon
4.3.2.10.2 (inclusive)	1	7/1/2002	3/26/2004	7/2/2004	MARC Editor (preferred): 25 licenses @ \$1,250
4.3.2.2 #4 (inclusive)	1	7/1/2004	6/2/2004	7/2/2004	Syndetics (virtual record enrichment)*
4.3.2.9.8 #10 (a through b)	1	7/1/2004	7/1/2004	7/2/2004	Refer ILL requests to OCLC*
4.3.2.9.8 #11	1	7/1/2004	7/1/2004	7/2/2004	Refer ILL requests to library's OCLC account*
4.3.2.6.4 #1	1	7/1/2004	3/26/2004	7/2/2004	Search reQuest via Z39.50*
4.3.2.2. #5	1	7/1/2004	7/1/2004	7/2/2004	Open-URL Compliance
4.1.19.1	1	7/1/2004	7/1/2004	7/2/2004	Service Outage Notification
All items designated as \$0 in 3/8/04 "itemized pricing" spreadsheet	1	7/1/2004	7/1/2004	7/2/2004	
4.1.1 #1	30	6/1/2004	7/1/2004	7/2/2004	Brand display screens with iCONN logo*
4.3.2.9.5.2 #6	30	6/1/2004	7/1/2004	7/12/2004	Detailed serials LDR in ILL request
4.3.2.9.5.2 #3	202	6/1/2004	12/1/2004	7/2/2004	System alerts lending library staff of lending requests on their last referral day.
4.1.19 #4ai		7/1/2004	7/1/2004	7/2/2004	Emergency response capability
4.2 (inclusive of all mandatory, core and preferred system requirements except 4.2.2.2 (inclusive), 4.2.2.4 #1 (inclusive), 4.2.2.4 #4, 4.2.2.4 #5 and 4.2.3 (inclusive))	60	5/1/2004	7/1/2004	TBD	Library Portal (inclusive; Lexus Nexus is the remaining piece, reQuest to decide)
4.2.3 (inclusive)			7/1/2004	TBD	Authentication services (final piece)
4.1.14 (inclusive)	60	5/1/2004	7/1/2004	10/15/2004	Web Hosting/Dynamic Content Management
4.3.2.9.4 #6 (inclusive), #7 (inclusive)	1	7/1/2004	7/1/2004		Links to reQuest from iCONN databases
4.1.3 #5	120	6/1/2004	9/1/2004	9/8/2004	Host and maintain a form for user suggestions.
4.3.2.9.4 #18(b)l	120	6/1/2004	9/1/2004	9/10/2004	Patron must acknowledge copyright notice ("I agree")
4.3.2.9.4 #21 (inclusive)	120	6/1/2004	9/1/2004	9/10/2004	Patron can submit ILL renewal requests. Review workflow with Steve.
4.3.2.2 #14f (i)	5	9/1/2004	9/6/2004	On Going	Dedupe database (each occurrence)
4.3.2.2 #28d	182	6/1/2004	7/1/2004		Validate incoming records against BIBCO Core Record Standard Coordinate changes in production process as necessary
4.3.2.6.1.3 #3	202	10/21/2004	5/21/2005	TBD	Limit holdings displayed by entered zip code
4.3.2.6.2 #4	202	10/21/2004	5/21/2005	TBD	Sort holdings in full record display by distance to a entered zip code.
4.3.2.9.4 #17	202	6/1/2004	12/1/2004	TBD	Alert patron if item requested is owned by home library
4.3.2.9.5.2 #8 (inclusive)	202	10/18/2004	12/1/2004	TBD	Print custom-designed slips & shipping labels (spec from CSL 10/18/04)
4.3.2.5 #1	1	7/1/2004	As Needed		<i>Libraries pay to have A-G export their holdings</i>

RQST - 2004 System Features

RFP Subsection	Days to complete	Start Date	Planned Delivery Date	Actual Delivery Date	Comments
4.3.2.4 (inclusive)	1	7/1/2004	On Going		Elapsed time to update after records received
4.1.17 #1, #1a, #3, #3a	6	7/1/2004	TBD		Ongoing training of Nelinet and iCONN staff
Year 2 Items					
4.1.6 #26	1	7/1/2005		7/2/2005	Cross-consortium services (e.g., ILL)
4.3.2.9.5.2 #2	182	1/1/2005		7/1/2005	IFLA compliance
4.3.2.9.8 #1 through #3, #6 (inclusive) and #7 (inclusive)	1	7/1/2005		7/2/2005	ISO compliance (Open)
4.1.9 #2	182	1/1/2005		7/1/2005	Spanish language user interface
4.3.2.9.5.1 #7 (inclusive)	182	1/1/2005		7/1/2005	Request multiple copies of an item (book clubs).
4.3.2.9.6 #2 (inclusive)	182	1/1/2005		7/1/2005	ILL lender selection inc. circ status, loan policy
4.3.2.9.4 #20 (inclusive)	182	1/1/2005		7/1/2005	ILL request form registers patron's willingness to pay to obtain requested item via ILL
4.3.2.9.6 #3ci	182	1/1/2005		7/1/2005	Repopulate lender list of unfilled ILL
4.3.2.9.6 #6 (inclusive)	182	1/1/2005		7/1/2005	Alert patron if requested item is nonlendable
4.3.2.9.5.2 #9	182	1/1/2005		7/1/2005	Print bookstraps
Year 3 Items					
4.2.4 (inclusive)	1	7/1/2006		7/2/2006	Library Portal Statistics (statewide level only).
4.3.2.6.1.1 #7	1	7/1/2006		7/2/2006	Phrase searching
4.3.2.9.3 (inclusive)	182	1/1/2006		7/1/2006	Provide patron options to buy/borrow/suggest
4.3.2.2 #7 (inclusive)	182	1/1/2006		7/1/2006	Harvest MARC records from local systems
Schedule for implementation and release to be determined as function is needed					
4.3.2.9.2 #1e (inclusive)					NCIP compliance (Not exercised)
4.3.2.9.6					ILL Accounting Module (Not exercised)